

### **REMARKS**

The Office Action of December 31, 2008, has been received and reviewed. A request for continued examination has been filed herewith. Claims 1-5 and 7-16 stand rejected and are currently pending. By way of this submission, claim 1 has been amended and 17 has been added. Claims 1-5 and 7-17 are presently pending, with claims 1 and 17 being in independent form. The pending claims are believed to be in condition for allowance and such favorable action is respectfully requested.

#### **Rejections based on 35 U.S.C. § 102(b)**

Claims 1 and 11-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kamisaka *et al.*, U.S. Patent No. 5,708,960 (hereinafter “Kamisaka”). As Kamisaka does not describe, either expressly or inherently, each and every element of these rejected claims, Applicants respectfully traverse the rejection as hereinafter set forth.

##### **A) Applicable Authority**

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdeggal Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 19133, 1920 (Fed. Cir. 1989); *see also*, MPEP § 2131.

**B) Novelty Rejection Based on Kamisaka Fails to Provide the Claimed Selectively Receiving the Identified Subset of Bulk Data Content**

Independent claim 1 is directed to a method for content synchronization for bulk data transfer in a multimedia network. The method includes scheduling transmission of bulk data content push to a plurality of end node devices. The schedule including identifying a subset of end node devices. The method also includes associating the subset of end node devices with a subset of the bulk data content. The method further includes notifying each end node device of the scheduled bulk data transmission on an individual basis, each such individual notification including sending information over the network indicating an expected end time for the scheduled transmission and each such individual notification indicates to each end node device the subset of bulk data content push to selectively receive. The notification occurring before the bulk data transmission begins. The method still further includes transmitting the bulk data content push via broadcast prior to the expected end time. The method also includes scanning the bulk data content push to identify the subset of bulk data content push indicated by the notification. The method includes selectively receiving the identified subset of bulk data content push at the subset of end node devices during the scheduled transmission. The selective receiving is based on the notification information received by each end node device. The method also includes, at the expected end time for the scheduled transmission, each end node device determining if the bulk data content push was received as expected. If not received as expected, the method includes sending a failure indication. If received as expected, the method includes activating the content.

By way of contrast, Kamisaka describes a system and method for dispatching a newspaper to subscribers through satellite communication. Kamisaka, Abstract. The system of

Kamisaka includes a newspaper edit/dispatch system (Fig. 1, 1) that delivers electronic newspapers to individual newsdealers (Fig. 1, 2) and/or home terminals (Fig. 1, 5). *Id.* at col. 4, lines 20-59. The newspapers are communicated to these newsdealers and/or home terminals via data contained in “transmission frames” (Fig. 4C). *Id.* at col. 6, line 41 to col. 7, line 67. The data communicated via these transmission frames include both “control frames” (Fig. 4A) and “data frames” (Fig. 4B). *Id.* at col. 7, lines 12-64. Control frames include information regarding the individual home terminal identification, the contents of the contract, a command for registering the contents of the contract, and information provider identification expressive of the office offering the newspaper. *Id.* at col. 7, lines 1-11. Data frames include information regarding the kind of newspaper, the date of issue, the identification expressive of the information provider, and the newspaper data. *Id.* at col. 7, lines 39-46.

Essentially, the control frames and data frames are disassembled by a transmitter, converted in transmission frames, and individually stored as transmission frames. *Id.* at col. 7, lines 12-21 and lines 55-64. After this conversion, both the transmission group representing the converted control frame and the transmission group representing the converted data frame are broadcast to newsdealers and/or home terminals. *Id.* at col. 7, lines 58-67. The transmission group representative of the control frame is then **received by a receiver** (Fig. 5, 531) for the newsdealers and/or home terminals and is converted back into a control frame (Fig. 4A). *Id.* at col. 8, lines 47-58. Additionally, the transmission group representative of the data frame is **received by a receiver** (Fig. 5, 531) for the newsdealers and/or home terminals. *Id.* at col. 8, lines 59-62. The receiver is in communication with a descrambler (Fig. 5, 532) and a buffer (Fig. 5, 536). *Id.* at col. 8, line 62 to col. 9, line 8. After receipt of the transmission frames, each of the transmission frames is **written directly into the reception buffer** (Fig. 5, 536). *Id.* at col.

8, line 47; col. 9, line 8. The received transmission frames are then restored (i.e., converted) to their respective pre-broadcast state (i.e., the transmission group representative of the data frame is converted into a data frame). *Id.* Thereafter, each of the “frames restored in the reception buffer . . . are successively sent to the RAM 503 through the multiplexer/demultiplexer 535 as well as the I/F [interface] circuit 513 **so as to be stored therein.**” *Id.* at col. 9, lines 13-17 (emphasis added). Based on the foregoing, the control and data frames are **indiscriminately received** by the receiver and by the home terminal. Further, the control and data frames are **indiscriminately stored** into the memory of the receiver (i.e., buffer 536) and the home terminal (i.e., RAM 503).

The **registration** process of Kamisaka fails to teach or suggest the claimed “selectively receiving” limitation of the present claims. On the contrary, both the receiver and home terminal of Kamisaka **receive each and every transmission group.** Specifically, Kamisaka teaches that every transmission group representing a converted control frame or data frame is received by the receiver and interfaced to the home terminal. Moreover, Kamisaka teaches that every converted transmission group is stored into some form of memory (i.e., random access memory, buffer). Only after **every transmission group is indiscriminately received and stored,** does Kamisaka teach a registration process (i.e., assessing the privileges of the home terminal to access certain data contained within the data frame). Based upon at least the foregoing, Kamisaka simply fails to disclose at least the “selectively receiving” limitation of independent claim 1.

The Office Action recognizes this deficiency of Kamisaka, and states:

Although data may pass through the receiver via the reception buffer, it does not in fact ‘receive’ all the content. Data is just buffered in the reception buffer, but is not ‘received’ until it is actually registered and recorded in disk drive 517-Fig. 7. Receiving defined by Merriam Webster is ‘to come into possession of,’ the

receiver is not in actual possession of the received items until it has actually been recorded into the disk drive, described in Kamisaka Col 9: lines 44-48. Therefore, only data that is recorded on the disk drive is actually received by the reception terminal, while data not intended for the reception terminal does not. . . .

See Office Action, p. 5. Applicants respectfully disagree with this reasoning. Initially, Applicants note that the Office Action's interpretation implies that "the receiver" of Kamisaka does not actually "receive" anything. This reasoning is unfounded. Kamisaka refers to the home terminals—and not just disk drive 517—as receiving the newspaper data. Kamisaka clearly teaches that, "[u]pon receiving the newspaper data, each of the home terminals 5 . . . records the received data in the disk storage medium." Kamisaka, col. 14, ll. 9-12. Kamisaka recognizes that receiving the newspaper content (for example, into a reception buffer) is distinct from storing the received information. What's more, even using the definition provided in the Office Action, the Office Action's rejection is improper. Clearly, the receiver of the receiving home terminal "comes into possession of" the newspaper data—otherwise it could not buffer or store the data.

Accordingly, it is respectfully submitted that Kamisaka fails to describe, either expressly or inherently, each and every element of independent claim 1. Thus, it is respectfully submitted that independent claim 1 is not anticipated by Kamisaka. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(b) rejection of claim 1.

Each of claims 11-14 depends, either directly or indirectly, from independent claim 1. As such, it is respectfully submitted that Kamisaka fails to describe, either expressly or inherently, each and every element of these claims for at least the above-identified reasons. Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 11-14 is respectfully requested.

**Rejections based on 35 U.S.C. § 103(a)**

In the Office Action, claims 2-3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kamisaka in view of Gupta, U.S. Patent No. 6,577,599 (hereinafter “Gupta”). Claims 4 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kamisaka in view of McNeil, U.S. Patent No. 6,421,706 (hereinafter “McNeil”). Claims 5 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kamisaka in view of Miura, U.S. Patent No. 6,483,848 (hereinafter “Miura”). Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kamisaka in view of McNeil and further in view of Kadansky et al., U.S. Patent No. 6,507,562 (hereinafter “Kadansky”). Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kamisaka in view of McNeil and further in view of Wada, U.S. Publication No. 2003/0007481 (hereinafter “Wada”). Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kamisaka in view of Gupta and further in view of Kadansky. Claim 16 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kamisaka in view of Miura and in further view of Dillon et al., U.S. Publication No. 2003/0206554 (hereinafter “Dillon”).

**A) Applicable Authority**

To sustain a rejection of a claim under 35 U.S.C. § 103(a), the Examiner must find that a preponderance of the evidence supports a finding of obviousness. The Examiner bears the initial burden of showing that the reference teachings establish a *prima facie* case of obviousness. “In view of all factual information, the examiner must . . . make a determination whether the claimed invention ‘as a whole’ would have been obvious at that time to that person.” MPEP § 2142 (explaining that “[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious”). In

making that determination, the Examiner must consider every word in each claim. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Recently, the Supreme Court indicated that “it will be necessary for [the Office] to look at interrelated teachings of multiple [prior art references]; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by [one of] ordinary skill in the art . . . to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the [patent application].” *KSR v. Teleflex*, 127 S. Ct. 1727 (2007). However, if the references do not “expressly or impliedly suggest the claimed invention,” the examiner must present “a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” MPEP § 706.02(j) and § 2142, quoting *Ex parte Clapp*, 227 USPQ 972, 972 (Bd. Pat. App. & Inter. 1985).

**B) Obviousness Rejection of Claims 2 and 3**

Claims 2 and 3 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kamisaka reference in view of the Gupta reference. As the Kamisaka and Gupta references, either alone or in combination, fail to teach or suggest all of the claim limitations of claims 2 and 3, Applicants respectfully traverse this rejection, as hereinafter set forth.

Claims 2 and 3 depend, either directly or indirectly, from independent claim 1, which claim was discussed hereinabove. As previously set forth, Kamisaka fails to describe each and every element of claim 1 and, accordingly, fails to teach or suggest all of the limitations of claims 2 and 3 for at least the above-cited reasons. Further, it is respectfully submitted that Gupta fails to cure the stated deficiencies of Kamisaka. Rather, Gupta describes a system for efficient and reliable multicasting. *See, e.g., Gupta, Abstract*. It is respectfully submitted,

however, that Gupta does not fairly teach or suggest those features of amended independent claim 1 stated to be deficient in the Kamisaka reference.

Claims 2 and 3 depend, either directly or indirectly, from amended independent claim 1, and are therefore patentable over the Kamisaka and Gupta for at least the reasons cited above. Moreover, claims 2 and 3 recite further novel and non-obvious features neither taught nor suggested in the cited references in the context of these claims. Accordingly, Applicant respectfully requests withdrawal of the § 103(a) rejections of claims 2 and 3. Claims 2 and 3 are believed to be in condition for allowance, and such favorable action is respectfully requested.

**C) Obviousness Rejection of Claims 4 and 8**

Claims 4 and 8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kamisaka reference in view of the McNeil reference. As the Kamisaka and McNeil references, either alone or in combination, fail to teach or suggest all of the claim limitations of claims 4 and 8, Applicants respectfully traverse this rejection, as hereinafter set forth.

Claims 4 and 8 depend, either directly or indirectly, from independent claim 1, which claim was discussed hereinabove. As previously set forth, Kamisaka fails to describe each and every element of claim 1 and, accordingly, fails to teach or suggest all of the limitations of claims 4 and 8 for at least the above-cited reasons. Further, it is respectfully submitted that McNeil fails to cure the stated deficiencies of Kamisaka. Rather, McNeil describes a system for presenting conference data, including video data, document data, and audio data, in real time. *See, e.g.,* McNeil, Abstract. It is respectfully submitted, however, that McNeil does not fairly teach or suggest those features of amended independent claim 1 stated to be deficient in the Kamisaka reference.



Claims 4 and 8 depend, either directly or indirectly, from amended independent claim 1, and are therefore patentable over the Kamisaka and McNeil for at least the reasons cited above. Moreover, claims 4 and 8 recite further novel and non-obvious features neither taught nor suggested in the cited references in the context of these claims. Accordingly, Applicant respectfully requests withdrawal of the § 103(a) rejections of claims 4 and 8. Claims 4 and 8 are believed to be in condition for allowance, and such favorable action is respectfully requested.

**D) Obviousness Rejection of Claims 5 and 7**

Claims 5 and 7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kamisaka reference in view of the Miura reference. As the Kamisaka and Miura references, either alone or in combination, fail to teach or suggest all of the claim limitations of claims 5 and 7, Applicants respectfully traverse this rejection, as hereinafter set forth.

Claims 5 and 7 depend directly from independent claim 1, which claim was discussed hereinabove. As previously set forth, Kamisaka fails to describe each and every element of claim 1 and, accordingly, fails to teach or suggest all of the limitations of claims 5 and 7 for at least the above-cited reasons. Further, it is respectfully submitted that Miura fails to cure the stated deficiencies of Kamisaka. Rather, Miura describes an apparatus having two receiving portions each receiving separate images, speech, text, or data, and displaying two groups of information on a single display device. *See, e.g.,* Miura, Abstract. It is respectfully submitted, however, that Miura does not fairly teach or suggest those features of amended independent claim 1 stated to be deficient in the Kamisaka reference.

Claims 5 and 7 depend directly or from amended independent claim 1, and are therefore patentable over the Kamisaka and Miura for at least the reasons cited above. Moreover, claims 5 and 7 recite further novel and non-obvious features neither taught nor

suggested in the cited references in the context of these claims. Accordingly, Applicant respectfully requests withdrawal of the § 103(a) rejections of claims 5 and 7. Claims 5 and 7 are believed to be in condition for allowance, and such favorable action is respectfully requested.

**E) Obviousness Rejection of Claim 9**

Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kamisaka reference in view of McNeil and further in view of Kadansky. As the Kamisaka, McNeil, and Kadansky references, either alone or in combination, fail to teach or suggest all of the claim limitations of claim 9, Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 9 depends indirectly from independent claim 1, which claim was discussed hereinabove. As previously set forth, Kamisaka fails to describe each and every element of claim 1 and, accordingly, fails to teach or suggest all of the limitations of claim 9 for at least the above-cited reasons. Further, it is respectfully submitted that neither McNeil nor Kadansky cures the stated deficiencies of Kamisaka. Rather, McNeil describes a system for presenting conference data, including video data, document data, and audio data, in real time. *See, e.g.,* McNeil, Abstract. Kadansky simply teaches dynamically forming a multicast repair tree by selectively choosing a repair head station. *See, e.g.,* Kadansky, Abstract. It is respectfully submitted, however, that neither McNeil nor Kadansky fairly teaches or suggests those features of amended independent claim 1 stated to be deficient in the Kamisaka reference.

Claim 9 depends from amended independent claim 1, and is therefore patentable over the Kamisaka, McNeil, and Kadansky for at least the reasons cited above. Moreover, claim 9 recites further novel and non-obvious features neither taught nor suggested in the cited references in the context of these claims. Accordingly, Applicant respectfully requests

withdrawal of the § 103(a) rejections of claim 9. Claim 9 is believed to be in condition for allowance, and such favorable action is respectfully requested.

**F) Obviousness Rejection of Claim 10**

Claim 10 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kamisaka reference in view of McNeil and further in view of Wada. As the Kamisaka, McNeil, and Wada references, either alone or in combination, fail to teach or suggest all of the claim limitations of claim 10, Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 10 depends indirectly from independent claim 1, which claim was discussed hereinabove. As previously set forth, Kamisaka fails to describe each and every element of claim 1 and, accordingly, fails to teach or suggest all of the limitations of claim 10 for at least the above-cited reasons. Further, it is respectfully submitted that neither McNeil nor Wada cures the stated deficiencies of Kamisaka. Rather, McNeil describes a system for presenting conference data, including video data, document data, and audio data, in real time. *See, e.g.,* McNeil, Abstract. Wada teaches a migration communication control device constructed to control continuous communication between a mobile node and a node unaffected by the mobile node's migration. *See, e.g.,* Wada, Abstract. It is respectfully submitted, however, that neither McNeil nor Wada fairly teaches or suggests those features of amended independent claim 1 stated to be deficient in the Kamisaka reference.

Claim 10 depends from amended independent claim 1, and is therefore patentable over the Kamisaka, McNeil, and Wada for at least the reasons cited above. Moreover, claim 10 recites further novel and non-obvious features neither taught nor suggested in the cited references in the context of these claims. Accordingly, Applicant respectfully requests

withdrawal of the § 103(a) rejections of claim 10. Claim 10 is believed to be in condition for allowance, and such favorable action is respectfully requested.

**G) Obviousness Rejection of Claim 15**

Claim 15 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kamisaka reference in view of Gupta and further in view of Kadansky. As the Kamisaka, Gupta, and Kadansky references, either alone or in combination, fail to teach or suggest all of the claim limitations of claim 15, Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 15 depends indirectly from independent claim 1, which claim was discussed hereinabove. As previously set forth, Kamisaka fails to describe each and every element of claim 1 and, accordingly, fails to teach or suggest all of the limitations of claim 15 for at least the above-cited reasons. Further, it is respectfully submitted that neither Gupta nor Kadansky cures the stated deficiencies of Kamisaka. Rather, Gupta describes a system for efficient and reliable multicasting. *See, e.g.*, Gupta, Abstract. Kadansky teaches dynamically forming a multicast repair tree by selectively choosing a repair head station. *See, e.g.*, Kadansky, Abstract. It is respectfully submitted, however, that neither Gupta nor Kadansky fairly teaches or suggests those features of amended independent claim 1 stated to be deficient in the Kamisaka reference.

Claim 15 depends from amended independent claim 1, and is therefore patentable over the Kamisaka, Gupta, and Kadansky for at least the reasons cited above. Moreover, claim 15 recites further novel and non-obvious features neither taught nor suggested in the cited references in the context of these claims. Accordingly, Applicant respectfully requests

withdrawal of the § 103(a) rejections of claim 15. Claim 15 is believed to be in condition for allowance, and such favorable action is respectfully requested.

**H) Obviousness Rejection of Claim 16**

Claim 16 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kamisaka reference in view of Miura and further in view of Dillon. As the Kamisaka, Miura, and Dillon references, either alone or in combination, fail to teach or suggest all of the claim limitations of claim 16, Applicants respectfully traverse this rejection, as hereinafter set forth.

Claim 16 depends indirectly from independent claim 1, which claim was discussed hereinabove. As previously set forth, Kamisaka fails to describe each and every element of claim 1 and, accordingly, fails to teach or suggest all of the limitations of claim 16 for at least the above-cited reasons. Further, it is respectfully submitted that neither Miura nor Dillon cures the stated deficiencies of Kamisaka. Rather, Miura describes an apparatus having two receiving portions each receiving separate images, speech, text, or data, and displaying two groups of information on a single display device. *See, e.g.,* Miura, Abstract. Dillon teaches a multicast network system that uses a high-speed link to multicast multimedia information from the Internet to a number of receivers. *See, e.g.,* Dillon, Abstract. It is respectfully submitted, however, that neither Miura nor Dillon fairly teaches or suggests those features of amended independent claim 1 stated to be deficient in the Kamisaka reference.

Claim 16 depends from amended independent claim 1, and is therefore patentable over the Kamisaka, Miura, and Dillon for at least the reasons cited above. Moreover, claim 16 recites further novel and non-obvious features neither taught nor suggested in the cited references in the context of these claims. Accordingly, Applicant respectfully requests

withdrawal of the § 103(a) rejections of claim 16. Claim 16 is believed to be in condition for allowance, and such favorable action is respectfully requested.

### **NEW CLAIM**

Newly added independent claim 17 is generally directed to a method for content synchronization for bulk data transfer in a multimedia network. The method includes scheduling transmission of bulk data content to a plurality of end node devices. The schedule including identifying a subset of end node devices. The method also includes associating the subset of end node devices with a subset of the bulk data content. The method further includes notifying each end node device of the scheduled bulk data transmission on an individual basis, each such individual notification including sending information over the network indicating an expected end time for the scheduled transmission and each such individual notification indicates to each end node device the subset of bulk data content push to selectively receive. The notification occurring before the bulk data transmission begins. The method still further includes transmitting the bulk data content via broadcast prior to the expected end time. The method also includes scanning the bulk data content to identify the subset of bulk data content indicated by the notification. The method includes **selectively receiving the identified subset of bulk data content at the subset of end node devices during the scheduled transmission**. The selective receiving is based on the notification information received by each end node device. The method also includes, at the expected end time for the scheduled transmission, each end node device determining if the bulk data content was received as expected. The method further includes, upon determining that the bulk data content was not received as expected, sending a failure indication. The method also includes, upon receiving the failure notification, retransmitting the bulk content to the network device that sent the failure indication, wherein the retransmission occurs using a more reliable transport mechanism.

Applicants respectfully submit that newly added independent claim 17 is neither anticipated nor rendered obvious by the cited references. By way of example only, independent claim 17 recites “selectively receiving the identified subset of bulk data content at the subset of end node devices during the scheduled transmission.” For at least the reasons provided above with regard to independent claim 1, Applicants respectfully submit that claim 17 is patentable over the cited references of record.



### **CONCLUSION**

For at least the reasons stated above, claims 1-5 and 7-17 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or [ahankel@shb.com](mailto:ahankel@shb.com) (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

/s/ Aaron E. Hankel /

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